

THIS LEASE OF RAILROAD EQUIPMENT, dated December 12, 1972, between ILLINOIS APPLIANCE CAR COMPANY, a Partnership, (hereinafter called "Lessor"), and CHICAGO ROCK ISLAND AND PACIFIC RAILROAD COMPANY, a corporation of the State of Delaware, (hereinafter called "Lessee"),

WITNESSETH:

WHEREAS, Berwich Forge and Fabricating Company, a Division of Whittaker Corporation, a California Corporation, hereinafter called "Manufacturer"), has agreed to manufacture, sell and deliver and Lessor has agreed to purchase and pay for 15-70 ton High Roof Box cars, (hereinafter called the "Cars") which are identified in Exhibit A attached hereto; and

WHEREAS, the Cars are to be manufactured in accordance with the specifications approved by Lessee, and Lessor (such specifications being hereinafter called the "Specifications"); and

WHEREAS, the terms and provisions contained in this Lease constitute the only understanding, oral or written, between Lessor and Lessee relating to the Cars; and

WHEREAS, Lessee represent that all acts and things necessary to make this Lease valid and binding upon Lessee have been done and performed;

NOW THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by Lessee, Lessor hereby leases the Cars to Lessee and Lessee hereby hires the Cars from the Lessor upon the following terms and conditions:

#### SECTION 1. DELIVERY AND ACCEPTANCE OF CARS.

Promptly after completion of manufacture thereof Lessor will require the Manufacturer to cause such Car to be tendered to Lessor and Lessee on behalf of Lessor at Lessee's option either at Manufacturer's plant or Berwich, Pennsylvania or if Lessee pays the cost of transportation at such other point as may be designated by Lessee. Such transportation shall be at Lessee's risk. Upon such tender Lessee will forthwith cause such Car to be further inspected by the authorized representative referred to above and, if such Car complies fully with the Specifications and is in good

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order and ready for service, Lessee will cause such representative to execute and deliver to Lessor and to the Manufacturer a Certificate of Inspection and Acceptance, substantially in the form hereto attached as Exhibit B, whereupon such Car shall be deemed to have been delivered to and accepted by Lessee, and shall be subject thereafter to all the terms and conditions of this Lease.

At all times during the continuance of this Lease title to the Cars shall be vested in Lessor to the exclusion of Lessee, and any rights of Lessee in respect of the Cars shall constitute a leasehold interest only.

The Cars are to be delivered by the Manufacturer to the Lessor on or before May 1, 1973, subject to rescheduling of shop space and delays due to strikes, differences with workmen, labor troubles, acts of God, Governmental acts and regulations, war or war conditions, riots or civil commotion, sabotage, fires, floods, or explosions or other accidents, or to delays of carriers or of subcontractors or in receipt of materials, or to delays occasioned by or arising in connection with the construction of other cars or products for Manufacturer's other customers, or to any other cause or causes (whether or not of the same general character as those herein specifically enumerated) beyond Manufacturer's reasonable control. This Lease shall not be effective as to any Cars not delivered and accepted on or before May 1, 1973, (the cutoff date) unless and to the extent such delivery and acceptance is delayed for the reasons above stated. Lessee understands that Lessor may agree to allow Manufacturer to schedule construction of the Cars before or after orders received for cars from other customers before or after the date of this Lease, but such agreement will provide that Manufacturer shall schedule the Cars for construction so that under normal business conditions the Cars would be completed by May 1, 1973. Delays above mentioned occurring before or during such construction period will excuse delivery by such date and extend the cutoff date.

Lessee shall hold Lessor harmless from all costs and expenses relating to the transportation and storage of the Cars charged to the Lessor after their completion by the Manufacturer prior to the acceptance of the Cars under the terms of the Lease.

SECTION 2. TERM OF THE LEASE.. The initial term of this Lease, (hereinafter called the "Initial Term"), as to each Car shall commence on the date of delivery to Lessee specified in the Certificate of Inspection and Acceptance for such Car and, subject to the provisions of Sections 9 and 11 hereof, shall terminate on the day, (hereinafter called the "Initial Term Terminal Day"), preceding the fifteenth

anniversary of the Average Date of Acceptance, as hereinafter defined in this Section 2. The term of this Lease shall expire on the Initial Term Terminal Day unless Lessee exercises its right and option to extend the term of this Lease as hereinafter provided in this Section 2.

Unless an Event of Default under Section 11 hereof shall have occurred and be continuing, Lessee shall have the right and option, by written notice given to Lessor not less than one hundred eighty (180) days prior to the Initial Term Terminal Day, to extend, subject to the provisions of Section 9 hereof, the term of this Lease with respect to the Cars then subject to this Lease for an additional period of ten (10) years, (hereinafter called the "Extended Term"), commencing on the fifteenth anniversary of the Average Date of Acceptance, as hereinafter defined in this Section 2, and ending on the day, (hereinafter called the "Extended Term Terminal Day"), preceding the twenty-fifth anniversary of the Average Date of Acceptance, as hereinafter defined in this Section 2.

In the event that Lessee exercises such right and option to extend the term of this Lease, the provisions of Sections 7, 8, 9, 10, 11 and 15 hereof shall be applicable during the Initial Term and such extended term of this Lease.

From and after the date of execution hereof until the expiration or termination of the Initial Term or any extension thereof, as to any Car as set forth in this Section, this Lease shall not be subject to termination by Lessor except pursuant to Section 11 hereof upon the occurrence of an Event of Default, or by Lessee except pursuant to Section 9 hereof.

For the purposes of this Lease, the "Average Date of Acceptance" shall be the first day of the calendar month next succeeding a date determined as follows: the number of Cars accepted by Lessee on each date of acceptance on or prior to the cutoff date as extended shall in each case be multiplied by the number of days elapsed subsequent to the date of the acceptance of the first Car accepted; the products so obtained shall be added together and divided by the total number of Cars accepted on or prior to the last date on or prior to the cutoff date as extended on which any of the Cars were accepted; and the quotient so obtained (rounded out to the nearest whole number) will be the number of days elapsed subsequent to the date of the acceptance of the first Car to and including the date which is the Average Date of Acceptance; provided, however, that the Average Date of Acceptance may be such other date as shall be agreed upon in writing by Lessor and Lessee.

SECTION 3. RENTALS. Lessee agrees to pay to Lessor, in cash, for the Initial Term of this Lease rental for each of the Cars subject to this Lease at the quarterly rate specified for such type of Car on Exhibit A hereof. Such rental shall begin to accrue on the later of the date on which such Car is delivered to and accepted by Lessee hereunder and the date on which Lessor pays Manufacturer for such Car and continue during the period ending on the earlier of (i) the Initial Term Terminal Day or (ii) the date, if any, on which this Lease shall terminate with respect to such Car pursuant to Section 9 or Section 11 hereof.

In the event that Lessee exercises its right and option to extend the term of this Lease, Lessee agrees to pay to Lessor, in cash, during the Extended Term rental for each of the Cars then subject to this Lease rent quarterly equal to the Fair Rental Value, as hereinafter defined in this Section 3, beginning on the fifteenth anniversary of the Average Date of Acceptance and ending on the earlier of (i) the Extended Term Terminal Day or (ii) the date, if any, on which this Lease shall terminate with respect to such Car pursuant to Section 9 or Section 11 hereof.

If on or before two months prior to the expiration of the Initial Term Lessor and Lessee are unable to agree upon a determination of the Fair Rental Value of such Cars, the Fair Rental Value shall be determined by an independent appraiser mutually agreed upon by Lessor and Lessee, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by Lessor, the second by Lessee and the third designated by the first two so selected. The appraiser or appraisers shall be instructed to make such determination within a period of thirty days following appointment and shall promptly communicate such determination in writing to Lessor and Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee. Within 10 days after receipt of such determination of Fair Rental Value as aforesaid Lessee at its option may withdraw and rescind its option to extend without further liability to Lessor other rentals and obligations during the Initial Term. The expenses and fees of the appraiser or appraisers shall be borne by Lessee.

Fair Rental Value shall mean at any time for the determination thereof an amount determined on the basis of, and equal to, the value which would obtain in any arm's-length transaction between an informed and willing lessee-user (other than a lessee-user currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value.

The first quarterly payment shall be paid to Lessor on the date the later of of the following events occurs: (i) the date the last Car subject to this Lease is delivered and accepted (ii) the date Lessor pays Manufacturer for the Cars. Such first quarterly rental payment shall include all rentals accrued hereunder to a date three months from the date of such first quarterly payment. The second quarterly rental payment shall be due on the quarter annual anniversary of the first quarterly rental payment. Quarterly rental payments shall continue thereafter until a total of 60 quarterly rental payments have been paid.

Lessee will pay, to the extent legally enforceable, interest at the rate of 10% per annum upon rentals remaining unpaid after the same shall have become due and payable under any of the provisions of this Lease.

All payments to be made to Lessor shall be made to North American Car Corporation as assignee of the rentals at 77 South Wacker Drive, Chicago, Illinois, 60606, or at such other place or places as shall be directed in writing by North American Car Corporation.

#### SECTION 4. COVENANTS, REPRESENTATIONS AND WARRANTIES.

(a) Lessor represents and warrants that at the time a Car becomes subject to this Lease, Lessor will lawfully have the right to lease such Car hereunder and that such Car will be free and clear of all liens and encumbrances of any nature whatsoever except only the rights of Lessee hereunder and of the holder of any chattel mortgage or conditional sale agreement or of the trustee of an equipment trust or of the holder of any other lien created heretofore or hereafter by the Manufacturer or the Lessor on such Cars and except for liens for taxes, assessments or governmental charges or levies not yet due and delinquent or not yet subject to penalty for non-payment, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's, employees' or other like liens arising in the ordinary course of business and not delinquent (such liens, being herein called "Permitted Liens"). Lessor agrees to pay or hold the Lessee harmless from any such Permitted Liens. THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES BY LESSOR, WHETHER WRITTEN, ORAL OR IMPLIED INCLUDING WITHOUT LIMITATION ANY WARRANTY AS TO THE DESCRIPTION OR THE CONDITION OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP IN THE CARS DELIVERED TO LESSEE HEREUNDER ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF ANY KIND; THE QUIET ENJOYMENT OF THE CARS OR ANY OTHER MATTER WHATSOEVER. ALL SUCH RISKS AS BETWEEN THE LESSOR AND THE LESSEE ARE TO BE BORNE BY THE LESSEE. PROVIDED, HOWEVER, IN THE EVENT THE POSSESSION OF A CAR IS TAKEN FROM LESSEE.

BY A HOLDER OF A PERMITTED LIEN OR A PERSON CLAIMING THROUGH LESSOR, AS TO SUCH CAR THIS LEASE SHALL TERMINATE AS OF THE DATE OF SUCH TAKING. HOWEVER, ANY RENTALS PREPAID HEREUNDER AS TO SUCH CAR AS OF SUCH DATE OF TERMINATION SHALL BE REFUNDED TO LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights Lessor may have against any manufacturers or contractors in respect of the Cars.

(b) Lessee represents and warrants that:

(i) The execution and delivery of this Lease by Lessee and its assumption and undertaking of the obligations, duties and liabilities hereof have been duly authorized by valid corporate action and this Lease is legal, valid, binding and enforceable against Lessee in accordance with its terms.

(ii) The rights of Lessor as herein set forth and the title of Lessor to the Cars are free and clear of the lien, charge or security interest created by any mortgage, security agreement or other instrument binding upon the Lessee.

(iii) No governmental authorizations, approvals or exemptions are required for the execution and delivery of this Lease or for the validity and enforceability hereof or for the leasing of the Cars hereunder, for the rentals and for the other terms and conditions herein provided; or, if any such authorizations are required, they have been obtained and, if any such authorization shall hereinafter be required, they will be promptly obtained.

(iv) No litigation or administrative proceedings are pending or, to the knowledge of Lessee, are threatened against Lessee, the adverse determination of which would affect the validity of this Lease or the rights of Lessor hereunder.

SECTION 5. OPINIONS OF COUNSEL. Concurrently with the delivery of the Certificate of Inspection and Acceptance of the first Car hereunder, Lessee will deliver to Lessor an opinion of O.L. Houts, Esq., to the effect that (i) the execution and delivery of this Lease by Lessee and its assumption and undertaking

of the obligations, duties and liabilities hereof have been duly authorized and this Lease is legal, valid, binding and enforceable against Lessee in accordance with its terms; (ii) the rights of Lessor as herein set forth and the title of Lessor to the Cars are free and clear of the lien of any mortgage, security agreement or other instrument binding upon the Lessee; (iii) this Lease has been filed and recorded in such public offices as are necessary for the full protection of the rights of Lessor in the United States of America and (iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of this Lease, or if any such approval is necessary (specifying the same), that is has been obtained.

SECTION 6. OWNERSHIP IDENTIFICATION OF CARS: NUMBERING. The Lessor as between the Lessor and the Lessee shall and hereby does retain full legal title to the Cars notwithstanding the delivery thereof to and the possession and use thereof by the Lessee. Upon or before the delivery to Lessee of each of the Cars, Manufacturer has agreed to cause to be plainly, distinctly, permanently and conspicuously placed or fastened upon each side of such Car a legend bearing the following words in letters not less than one inch in height:

"ILLINOIS APPLIANCE CAR COMPANY, A  
PARTNERSHIP, OWNER, NORTH AMERICAN  
CAR CORPORATION, CHICAGO, ILLINOIS  
MORTGAGEE UNDER AN EQUIPMENT MORTGAGE  
RECORDED UNDER SECTION 20 c OF THE  
INTERSTATE COMMERCE ACT"

and such other markings as may be provided in Section 13 hereof, and with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of Lessor, and the holders of permitted liens designated by Lessor to such Cars, their rights under this Lease and the rights of any assignee of the Lessor. In case, during the continuance of this Lease, any such legend shall at any time be painted over or otherwise made inconspicuous, removed, defaced or destroyed on any Car, Lessee shall immediately cause the same to be restored or replaced.

Provided, however, Lessor may change the initial marking legend by written notice to Lessee. Lessee upon receipt of written notice from Lessor delivered not less than 14 days prior to delivery of any Car shall cause such car to be marked with such legend as required by such written notice from Lessor.

On or prior to the time of delivery of each Car to Lessee, Manufacturer has agreed to cause to be placed on each side of such Car the identifying Lessee's assigned reporting marks and Road Numbers as provided in Exhibit A. Lessee shall inform Lessor in writing immediately in the event of any change of reporting marks. At all times thereafter, during the continuance of this Lease, Lessee will cause each Car to bear the numbers and reporting marks so assigned to it, and Lessee will not change or permit to be changed the numbers of any Car except in accordance with a statement of new numbers to be substituted therefor which previously shall have been filed with Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease will have been filed, recorded or deposited. Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Cars as a designation that might be interpreted as a claim of ownership; provided, however, the Lessee may cause the Equipment to be lettered with the names, initials or other insignia customarily used by the Lessee on railroad equipment used by Lessee of the same or similar type for convenience of identification.

#### SECTION 7. TAXES AND TAX BENEFITS.

A. TAXES. Lessee agrees that, during the continuance of this Lease, in addition to the rentals herein provided, Lessee will promptly pay all taxes, assessments and other governmental charges levied or assessed upon or in respect of the Cars, or any thereof, or upon the use or operation thereof or the Lessee's earnings arising therefrom, if and to the extent that any such taxes, assessments or other governmental charges may give rise to any lien upon the Cars or may become a claim entitled to priority over any of the rights of Lessor in and to the Cars, and as additional rental will promptly pay or reimburse Lessor for all taxes, assessments and other governmental charges levied or assessed against Lessor, or any successor in title solely on account of ownership of the Cars, or any thereof, or on account of the use or operation thereof or on account of the earnings arising therefrom (exclusive, however, of any tax in the nature of an income tax on the net income from the rentals herein) including without limitation all licenses and registration fees, assessments and any sales, use or similar taxes payable on account of the sale or delivery of the Cars by the Manufacturer to Lessor or the leasing of the Cars hereunder; but Lessee shall not be required to pay the same so long as they shall in good faith and by appropriate legal or administrative proceedings contest the validity or amount thereof unless thereby, in the judgment of Lessor, the rights or interest of Lessor will be materially endangered, nor shall Lessee be required to make any tax payment which is deferred by order of a court having jurisdiction, provided that such deferment shall not subject the title and interest of Lessor in and to the Cars to any lien or encumbrance.



In the event any tax reports are required to be made on the basis of individual Cars, Lessee will either make such reports in such manner as to show the ownership of such Cars by Lessor or any successor in title or will notify Lessor of such requirement and will make such report in such manner as shall be satisfactory to Lessor. In addition to the above taxes, Lessee shall pay any penalties or interest thereon imposed by any state, federal or local government upon any Car whether or not the same shall be assessed against or in the name of the Lessor and the Lessee shall reimburse the Lessor for any damages or expenses resulting from such failure to pay or discharge any items to be paid under this Section. Lessee shall be obligated to pay only such taxes, penalties or interest as are levied or assessed during the term of this Lease.

B. FEDERAL INCOME TAXES. The Lessor, as the owner of the Cars shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), to an owner of property including (without limitation) the deduction for amortization in lieu of depreciation for railroad rolling stock under Section 184 of the Code, with respect to the Cars. The Lessor agrees that it will elect deduction with respect to the Cars over the shortest length of time permissible under the Code.

Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing and that each of such corporations will file such returns, take such action and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent thereof. Lessee agrees to keep and make available for inspection and copying by Lessor such records as will enable Lessor to determine whether it is entitled to the full benefit of the amortization deduction with respect to the Cars.

The Lessee represents and warrants that (i) each of the Cars constitutes qualified railroad rolling stock within the meaning of Section 184 (d) (i) the Code and the final Regulations issued thereunder and that at all times during the term of this Lease, each Car will continue to qualify as railroad rolling stock for which the Lessor is entitled to an Amortization Deduction; (ii) at the time the Lessor becomes the owner of the Cars, the Cars will not have been used by any person so as to preclude "the original use of such property" within the meaning of Section 184 (d) (2) of the Code from commencing with the Lessor.

If (other than for the reasons set forth below) the Lessor shall lose, or shall not have or shall lose the right to claim, or there shall be disallowed with respect to the Lessor, all or any

portion of the Amortization Deduction with respect to any Car, the Lessee shall pay at such time as the tax and interest attributable to the loss of the Amortization Deduction is payable (but not later than thirty (30) days after receipt by the Lessee of written notice that such tax and interest has been paid by a partner in the Lessor or become payable) to the Lessor (i) a sum which, after deduction of all taxes, fees, or other charges required to be paid by the partners in the Lessor in respect of the receipt of such sum under the laws of any federal, state or local government or taxing authority in the United States, shall be equal to the additional amounts and penalties (including any additions to tax because of underpayment of estimated tax) paid by the partners in the Lessor in consequence of the Lessor's loss of the Amortization Deduction; (ii) the amount of any interest which may be payable by the partners in the Lessor as a consequence of the Lessor's loss of the Amortization Deduction; and, (iii) a sum equal to the amount of all future disallowances of the Amortization Deduction, less any depreciation in lieu thereof allowed only for the years in which the Amortization Deduction would have been allowable but for its loss hereunder, not theretofore claimed by the Lessor and which would not be allowable to the Lessor as a result of its prior loss of the Amortization Deduction causing payments to be made pursuant to (i) and (ii).

Deduction; provided, however, that such payments shall not be made if the Lessor shall have lost, or shall not have, or shall have lost the right to claim, or if there shall have disallowed with respect to the Lessor, all or any portion of such Amortization Deduction with respect to such car as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to any such Car, if the Lessee shall have paid to the Lessor the amounts stipulated under Section 9 hereof;

(ii) a transfer by the Lessor of legal title or equitable interest therein to such Car, the disposition by the Lessor of any interest in any such Car or the reduction by the Lessor of its interest in the rentals from any such Car under the Lease unless, in each case, an Event of Default shall have occurred and be continuing;

(iii) the amendment of the Security Documents without the prior written consent of the Lessee;

(iv) the failure of the Lessor to claim such Amortization Deduction as applicable, in its income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming such Amortization Deduction as applicable;

(v) the failure of the Lessor to have sufficient income to benefit from the Amortization Deduction as applicable;

(vi) the failure of any partner of the Lessor to take timely action in contesting a claim made by the Internal Revenue Service with respect to the disallowance of such Amortization Deduction, if the failure to take such action in a timely manner shall have precluded the right of the Lessee to contest such claim, or a failure to take action to contest any such claim after a timely request to conduct such contest has been given by the Lessee to the Lessor (provided that the Lessee shall upon demand of the Lessor pay to the Lessor or the partner contesting such claim the expenses of any such contest as a condition of prosecuting the same); or the release, waiver, compromise or settlement of any action or proceeding taken in accordance with this clause (vi) by the Lessor or a partner thereof without the prior written consent of the Lessee; or

(vii) any other fault of the Lessor which directly causes the loss of any of the aforesaid tax benefits; provided, however, that the execution and delivery of this Lease and the other documents herein referred to and the carrying out of the transactions contemplated herein and therein in accordance with the terms of this Lease and such other documents shall not be deemed to have caused the loss of such tax benefit under this clause (vii).

In the event a claim shall be made by the Internal Revenue Service with respect to the disallowance of the Lessor's Amortization Deduction in respect of any Car, the Lessor agrees to take or cause any partner to take such action in connection with contesting such claim as the Lessee shall reasonably request from time to time, provided that: (i) within 30 days after notice by the Lessor to the Lessee of such claim, the Lessee shall make request that such claim be contested; (ii) the partner in the Lessor at his sole option may forego any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service in respect of such claim and may at his sole option, either pay (in which event the payments provided for in this fourth paragraph of Section 7B will become due and payable) the tax claimed and sue for a refund in the appropriate United States District Court and/or the United States Court of Claims, as the partner shall elect, or contest such claim in the Tax Court of the United States, considering, however, in good faith such request as the Lessee shall make concerning the most appropriate forum in which to proceed; (iii) prior to taking such action, the Lessee shall have furnished the Lessor with an

opinion of independent tax counsel satisfactory to the Lessor to the effect that a meritorious defense exists to such claim; and (iv) the Lessee shall have indemnified the Lessor in a manner satisfactory to it for any liability or loss which the Lessor may incur as the result of contesting such claim and shall have agreed to pay the Lessor on demand all costs and expenses which the Lessor may incur in connection with contesting such claim, including, without limitation (A) reasonable attorneys' and accountants' fees and disbursements and (B) the amount of any interest or penalty which may ultimately be payable to the United States Government as the result of contesting such claim, and the Lessee shall have furnished reasonable security for such indemnification as may be requested. In the case of any such claim by the Internal Revenue Service referred to above, the Lessor agrees promptly to notify the Lessee in writing of such claim and agrees that none of its partners will make payment of the tax claimed for at least 30 days after the giving of such notice and agrees to give to the Lessee any relevant information relating to such claim which may be particularly within the knowledge of the Lessor, and shall otherwise cooperate with the Lessee in good faith in order to effectively contest any such claim. The partners in the Lessor will not agree to the release, compromise or settlement of any action or proceeding taken in accordance with this Section 7 by the Lessor without the prior written consent of the Lessee.

If the Lessor's right to claim all or any part of the full Amortization Deduction with respect to a Unit, which was not claimed or was disallowed, shall be established by the final judgment or decree of the court of administrative agency having jurisdiction thereof, or if the Lessor or a partner therein shall release, waive, compromise or settle any claim without the written consent of the Lessee, then, on the next succeeding rental payment date thereafter or after such judgment or decree shall have become final, as the case may be the Lessor shall reimburse promptly on demand to the Lessee in an amount equal to all sums paid by the Lessee pursuant to the fourth paragraph of this Section 7B together with interest thereon at a rate of six percent (6%) per annum.

The Lessee's and the Lessor's agreement to pay any sums which may become payable pursuant to this Section 7B shall survive the expiration or other termination of this Lease.

#### SECTION 8. MAINTENANCE, LIENS AND INSURANCE.

(a) Lessor makes no warranty or representation, either expressed or implied in respect of the Cars, including without limitation, any warranty or representation as to the fitness, design or condition of, or as to the quality of the material, equipment or workmanship in, the Cars delivered to Lessees hereunder, it being agreed that all such risks, as between Lessor and Lessee, are to be borne by Lessee.

(b) Lessee agree, during the continuance of this Lease, at Lessee's own cost and expense, to maintain and keep all of the Cars in first class condition and repair and in good and efficient working order, reasonable wear and tear excepted, and acceptable for use in unrestricted interchange and the Cars shall be delivered to Lessor at termination of the Lease in such condition.

(c) Except for alterations or changes required by law, Lessees shall not, without the prior written approval of Lessor, effect any change in the design, construction or body of the Cars or appurtenances thereto.

(d) Any parts installed or replacements made by Lessee upon any Car shall be considered accessions to such Car and title thereto shall be immediately vested in Lessor, without cost or expense to Lessor except that this shall not apply to special equipment installed in any Car by Lessee with the consent of Lessor provided that such equipment is removed by Lessee before the Cars are returned to Lessor and all damage resulting from such installation and removal is repaired by Lessee and further provided that removal of such equipment does not affect the Cars' serviceability or use in unrestricted interchange.

(e) Lessee shall pay or satisfy and discharge any and all sums claimed by any party against Lessee which, if unpaid, might become a lien or a charge upon the Cars or entitled to priority over any of the rights of Lessor in and to the Cars, but Lessee shall not be required to discharge any such claim so long as they shall in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which, in the opinion of Lessor, will not affect or endanger the title and interest of Lessor in and to the Cars.

SECTION 9. LOSS, THEFT OR DESTRUCTION OF CAR. In the event any Car is lost or stolen or is destroyed or damaged beyond economic repair from any cause whatsoever during the term of this Lease, Lessee shall promptly and fully inform Lessor of such occurrence and shall,, on the next succeeding rental payment date after Lessee knows of such occurrence, pay to Lessor, as liquidated damages in lieu of any further claim of Lessor hereunder in respect of such Car, except for accrued rent and such claims as arise or exist under Sections 7 and 8 hereof a sum equal to the Casualty Value (as hereinafter defined) of such Car as of the date of such payment as determined below. Upon the making of such payment by the Lessee in respect to any Car, the rental for such Car shall

cease to accrue, the term of this Lease as to such Car shall terminate and (except in the case of the loss, theft, irreparable damage or complete destruction of such Car) the Lessor shall be entitled to recover possession of such Car.

The Casualty Value of each Car shall be the greater of (a) the amount determined as of the rental payment date next preceding the payment date provided above shall be that percentage of the Purchase Price of such Car as is set forth in the following schedule opposite the number of such rental payment date:

<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
1	110.0	31	77.8
2	109.5	32	76.3
3	109.0	33	74.8
4	108.4	34	73.4
5	107.8	35	71.9
6	107.2	36	70.5
7	106.8	37	69.0
8	106.4	38	67.6
9	106.0	39	66.1
10	105.0	40	64.7
11	104.0	41	63.2
12	103.0	42	61.8
13	102.0	43	60.3
14	101.0	44	58.6
15	100.0	45	56.9
16	99.0	46	55.2
17	98.0	47	53.4
18	96.0	48	51.6
19	94.0	49	49.8
20	92.0	50	48.0
21	91.0	51	46.2
22	90.0	52	44.4
23	89.0	53	42.6
24	88.0	54	40.8
25	86.5	55	39.0
26	85.1	56	37.2
27	83.6	57	35.4
28	82.2	58	33.6
29	80.7	59	31.8
30	79.3	60	30.0

or (b) a sum equal to the amount determined in accordance with the then current Code of Rules Governing the Settlement for Destroyed or Damaged Cars adopted by the Association of American Railroads, provided such rules are applicable to the Car concerned.

Except as hereinabove in this Section 9 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Car after delivery to and acceptance thereof by the Lessee hereunder.

The excess of damages received from others or condemnation payments, (herein "Recoveries") if any, after deduction of such payments received from the Lessee in respect of Casualty Occurrences, shall belong to the Lessor. If the Lessor shall receive any such Recoveries after the Lessee shall have made payments pursuant to this Section 9 without deduction for such Recoveries, the Lessor shall pay such Recoveries to the Lessee up to an amount equal to the Casualty Value theretofore by Lessee with respect to a Car paid by the Lessee and any balance of such Recoveries shall remain the property of the Lessor.

Upon payment of the Casualty Value of such Car, the title to such Car subject to the rights of the Mortgagee of such Car shall pass to and vest in the Lessee.

SECTION 10. COMPLIANCE WITH LAWS AND RULES; INDEMNIFICATION. Lessee agrees to comply in all respects with all laws of the jurisdictions in which their operations involving the Cars may extend and with all lawful rules of the Federal Railroad Administration and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over Lessee or over the Cars, to the extent that such laws and rules affect the operation, maintenance or use of the Cars. In the event such laws or rules require the alteration of the Cars, Lessee will conform therewith, at Lessee's expense, and will maintain the same in proper condition for operation under such laws and rules; provided, however, that Lessee may, in good faith, contest the validity and application of any such law or rule in any reasonable manner which does not, in the opinion of Lessor, adversely affect the property or rights of Lessor as owner hereunder.

Lessee hereby agrees to indemnify, reimburse and hold Lessor harmless from any and all claims, demands, suits, judgments or causes of action for or on account of injury to or death of persons, or loss or damage to property which may result from or grow out of the control, use or operation of the Cars under this Lease in any manner whether or not in the possession of Lessee, provided, however, that Lessee does not assume liability in respect of representatives, agents or employees of the Manufacturer or Lessor, and provided, further that Lessor will assign or pay over to Lessee any and all claims which it may have against third parties in respect of loss or damage to the Cars if Lessee is not in default under this Lease.

SECTION 11. DEFAULT. If, during the continuance of this Lease or any extension thereof, one or more of the following events shall occur:

(a) default shall be made in the payment of any part of the rental provided in Section 3 hereof and such default shall continue for Ten (10) days after written notice from Lessor to Lessee.

(b) Lessee shall make or suffer any unauthorized assignment or transfer of this Lease or of possession of the Cars or any of them except for the requisitioning, taking over or nationalizing described in Section 17 of this Lease and shall fail or refuse to cause such assignment or transfer to be cancelled by agreement of all parties having any interest therein and to recover possession of such Car or Cars within thirty (30) days after written notice from Lessor to Lessee demanding such cancellation and recovery of possession;

(c) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of Lessee contained herein and such default shall continue for thirty (30) days after written notice from Lessor to Lessee specifying the default and demanding the same to be remedied;

(d) any material representation made by Lessee herein or hereunder or in any certificate or other instrument delivered under or pursuant to any provision hereof shall prove to have been false or incorrect in any material respect on the date as of which made;

(e) any proceeding shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Lessee under this Agreement), and unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee, or for their respective property in connection with any such proceedings



in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(f) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or then, in any such case (herein sometimes called Events of Default), Lessor, at its option, may

(1) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; and or

(2) by notice in writing to Lessee terminate this Lease, whereupon all right of Lessee to the use of the Cars shall absolutely cease and determine as though this Lease had never been made, but Lessee shall remain liable as herein provided; and thereupon Lessee shall deliver possession of the Cars to Lessor in accordance with Section 15 hereof and Lessor may by its agents enter upon the premises of Lessee or other premises where any of the Cars may be and take possession of all or any of such Cars (damages occasioned by such taking of possession are hereby expressly waived by Lessee) and thenceforth hold, possess and enjoy the same free from any right of Lessee, or Lessee's successors or assigns, to use the Cars for any purpose whatever; but Lessor shall nevertheless, have a right to recover from Lessee any and all amounts which under the terms of this Lease may be then due or which may become due and unpaid for the use of the Cars (including rentals accruing on the Cars after the date of default); and also to recover forthwith from Lessee (to the extent not recovered pursuant to the foregoing) the following:

(i) as damages for loss of the bargain and not as a penalty, a sum, with respect to Cars whose term has not expired, which represents the excess of the present worth, at the time of such termination, of the aggregate of the rentals for the Cars which would otherwise have accrued hereunder from the date of such termination to the Terminal Day of the then current term over the then present worth of the Fair Rental Value of such Cars for such period; plus interest on such excess at the rate of 10% per annum commencing on the date of such notice. Such present worths are to be computed in each case by discounting such rental payments at a rate of 5 1/2% per annum compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated to the time of such termination, and

(ii) any expenses incurred in the retaking, storage repairing and lease, sale or other disposition, and reasonable attorneys' fees incurred by Lessor, plus an amount equal to accrued taxes and other amount payable hereunder by Lessee with respect to the Cars all costs, expenses, losses and damages incurred or sustained by Lessor by reason of such default, and interest at the rate of 10% per annum on each of the foregoing items in this subparagraph (ii) and on all other sums not paid when due under this Lease.

If on the date of such termination or repossession, any Car is damaged, lost, stolen or destroyed or is subject to any levy, seizure, assignment, application or sale for or by any creditor, Lessee shall also remain liable for payment of the amounts specified in Section 9 hereof.

The remedies in this Lease provided in favor of Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. No delay or omission of Lessor in the exercise of any power or remedy given herein shall be deemed a waiver of such power or remedy. In the event that Lessor shall bring suit and be entitled to judgment hereunder, then Lessor shall be entitled to recover reasonable expenses, including attorneys' fees and the amount thereof shall be included in such judgment.

## SECTION 12. POSSESSION AND USE OF THE CARS

POSSESSION AND USE OF THE CARS. Unless an Event of Default shall have occurred and be continuing, Lessee shall be entitled to the possession and use of the Cars in accordance with the terms of this Lease. Lessee shall not, without the prior written consent of Lessor, part with the possession or control of, or suffer or allow to pass out of their possession or control, any of the Cars, except that Lessee may permit the use thereof or any part thereof by other railroads in the usual interchange of traffic. Lessee shall not suffer or permit the Cars to leave the United States of America, without the written consent of Lessor and North American Car Corporation or its assigns.

## SECTION 13. ASSIGNMENT.

(a) All rights, benefits and advantages of Lessor hereunder may be assigned, pledged, mortgaged, transferred or otherwise disposed of, or Lessor may sell the Cars and Lease the Cars, either in whole or in part, and/or Lessor may assign, pledge, mortgage, transfer or otherwise dispose of title to the Cars, with or without notice to Lessee. In the event of any such assignment, pledge, mortgage, transfer or other disposition, this Lease and all of Lessee's rights under this Lease, and all rights of any person, firm or corporation who claims or who may hereafter claim any rights under this Lease under or through Lessee, are hereby made subject and subordinate to the terms, covenants and conditions of any chattel mortgages, conditional sale agreements, agreements and assignments, and/or equipment trust agreements or sales and leasebacks, or lease covering the Cars or any of them heretofore or hereafter created and entered into by Lessor, its successors or assigns, and to all of the rights of any such chattel mortgagee, assignee, trustee Lessor or other holder of the legal title to the cars. Any assignment or transfer of Lessee's leasehold interest hereunder in the Cars and possession thereof permitted by this Section 13 that is made by Lessee, its successors or assigns, shall contain language which expressly makes such sublease subject to the subordination contained in this Subsection 13 (a). Provided Lessee is not in default under this Lease if Lessee's right to use the Cars or any of them is terminated by any person, firm or corporation to whom Lessee's rights are subordinated under the terms of this section, Lessee shall have no obligation to pay rent for such Cars after the date of such termination and any rentals prepaid hereunder as to such Car as of the date of such termination shall be refunded to Lessee. At the request of Lessor or any chattel mortgagee, assignee, trustee, Lessor or other holder of the legal title to the Cars, Lessee shall cause the Cars be lettered or marked to identify the legal owner of the Cars at no expense to Lessor for the initial markings at the time of delivery of the Cars, thereafter such additional markings shall be at no expense to Lessee. If during

the continuance of this Lease any such marking shall at any time be removed or become illegible, wholly or in part, Lessee shall immediately cause such marking to be restored or replaced, at Lessee's expense. No such assignment by Lessor shall subject any assignee to or relieve Lessor from any obligation of Lessor hereunder or affect the rights of Lessee under this section.

(b) Lessee, without the prior written consent of Lessor, shall not sell, assign, transfer or encumber its leasehold interest under this Lease in any of the Cars or sublet any of the Cars, except that Lessee may assign and transfer its leasehold interest hereunder in the Cars and the possession thereof to any railroad or other Corporation which shall have assumed all of the obligations of Lessee hereunder provided no such assignment with or without the consent of Lessor shall release any of Lessee's obligations hereunder. Any assignment prohibited by this Section 13 shall be void.

#### SECTION 14. REPORTS, RIGHT TO INSPECT THE CARS.

(a) During the continuance of this Lease, Lessee agrees that it and its agents, employees and representatives will cooperate with Lessor in the investigation and defense of any and all claims against the Lessor which may arise as a result of the alleged or apparent improper manufacturing, functioning or operation of any of the Cars and that they will aid in the recovery of damages from any third parties responsible therefore. Lessee also agrees to give Lessor such information with respect to any accident resulting from the use of the Cars as may be reasonably requested by the Lessor.

(b) During the continuance of this Lease, Lessee will, as soon after the close of each fiscal year of Lessee as practicable, furnish to Lessor in duplicate copies of Lessee's most recent financial reports, including Lessee's most recent annual report and/or balance sheet and profit and loss statement, certified by either a recognized firm of Certified Public Accountants, or by the chief financial officer designated by Lessee. Interim statements, so certified, will be furnished by Lessee as requested by Lessor.

(c) During the term hereof, Lessee will furnish to Lessor, on or before March 1 in each year (commencing with the year 1974) and on such other dates as Lessor may from time to time reasonably request, an accurate report certified by a duly authorized agent of Lessee stating as of a recent date (but, in the case of each annual statement, not earlier than the preceding December 31 and in the case of any other such statement, not earlier than a date ninety (90) days preceding

the date of such statement): (a) (i) Lessee's car numbers of the Cars then subject to this Lease, (ii) Lessee's car numbers of all Cars that have become worn out, lost, destroyed, irreparably damaged or rendered permanently unfit for use since the date of the previous report (or since the date hereof in the case of the first such report), (iii) Lessee's car numbers of all Cars being repaired or awaiting repairs, and (iv) Lessee's car numbers of all Cars that have been requisitioned, taken over or nationalized by any governmental authority since the date of the previous report (or since the date hereof in the case of the first such report) (b) that all Cars then subject to the Lease have been maintained in accordance with Subsection 8 (b) hereof or, if such be the case, are then being repaired in accordance with Section 8 hereof, and that the legend placed on the Cars as required by Section 6 hereof has been preserved or repainted on each side of each Car and that Lessee's identifying reporting mark and the appropriate car numbers have been preserved or repainted on each side of each Car as required by Section 6 hereof; and (c) such other information regarding the location, condition and state of repair of the Cars as Lessor may reasonably request.

(d) Lessor and/or its assignee shall have the right at its sole cost and expense, by its authorized agents, employees and/or representatives, to inspect the Cars and Lessee's records with respect thereto, at such times and from time to time during the continuance of this Lease as may be reasonably necessary to confirm to the satisfaction of Lessor and/or its assignee the existence and proper maintenance of the Cars; provided, however, that notwithstanding any contrary provision hereof, Lessee does not assume liability for injury to, or the death of, any agents, employees and/or representatives of Lessor or other persons while exercising any right of Lessor and/or its assignee under this Subsection 14 (d).

SECTION 15. RETURN OF CARS. Upon the expiration of the term of this Lease, or if Lessor shall rightfully demand possession of the Cars pursuant to this Lease or otherwise Lessee shall forthwith remove or cause any lettering of the names or initials or other insignia customarily used by Lessee to be removed from the Cars at Lessee's cost and expense and deliver the possession of the Cars to Lessor. For such purpose Lessee shall at its own cost and expense forthwith assemble the Cars and place them upon such storage tracks of Lessee as Lessor may designate, or, in the absence of such designation, as Lessee may select, and Lessee shall permit Lessor to store said Cars on such tracks for a period not exceeding one hundred (100) days from the date that all Cars

are so assembled at the risk of Lessor, and shall at Lessee's own cost and expense transport or cause to be transported the same or any thereof, at any time within such one hundred (100) day period, to North American Car Corporation's facility in Chicago Ridge, Illinois or to any place selected by Lessor provided Lessee shall pay no part of the transportation expenses which exceed the cost of returning the Cars to North American Car Corporation's facility in Chicago Ridge, Illinois, or to any place or places on the lines of Lessee or to any connecting carrier for shipment all as directed by Lessor. The assembling, delivery, storage and transporting of the Cars as hereinabove provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises Lessor shall be entitled to a decree against Lessee so as to assemble, deliver, store and transport the Cars. Lessor reserves the right to designate different places of assembly for different Cars.

Without in any way limiting the obligation of Lessee under the foregoing provisions of this Section 15, Lessee hereby irrevocably appoint Lessor as the agent and attorney of Lessee, with full power and authority, at any time while Lessee is obligated to deliver possession of any Car to Lessor, to demand and take possession of such Car in the name and behalf of Lessees from whomsoever shall be at the time in possession of such Car.

Except as otherwise provided in Section 9 hereof, in the event that any Car or Cars subject to this Lease are not redelivered to Lessor on or before the date on which the term of this Lease expires, all of the obligations of Lessee under this Lease with respect to such Car or Cars shall remain in full force and effect until such Car or Cars are redelivered to Lessor.

SECTION 16, PURCHASE OPTIONS. Provided that this Lease has not been earlier terminated and Lessee is not in default hereunder, Lessee may by written notice delivered to Lessor not less than six months prior to the end of the Initial Term, or the Extended Term of this Lease, elect to purchase all of the Cars then covered by this Lease at the end of such term or extension of this Lease for a purchase price equal to the Fair Market Value of such Cars as of the end of such term or extension.

If on or before four months prior to the Initial Term Terminal Day or the termination of any extension of the Lease, Lessor and Lessee are unable to agree upon a determination of the Fair Market Value of the Cars, the Fair Market Value shall be determined by an appraiser or appraisers selected and instructed under the same procedures as are set forth in Section 3 hereof.

Fair Market Value shall mean at any time for the determination thereof an amount determined on the basis of, and equal to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than (i) a Lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value.

Within 10 days after the receipt by Lessee of the determination by the appraiser of clear market value as aforesaid Lessee at its option may withdraw and rescind its option, purchase without further liability to Lessor other than rentals and obligations to Lessor incurred during the initial or any extended term of this Lease.

Upon payment of the purchase price as provided herein Lessor shall convey the Cars so purchased by a Bill of Sale "as is" and "whereis" warranting Lessor's title but that the warranties shall be subject to claims of persons by or through Lessee.

SECTION 17. GOVERNMENTAL ACTION. If any Car is requisitioned, taken over or nationalized by any governmental authority under the power of eminent domain or otherwise during the term of this Lease and all of the obligations of the Lessee hereunder are not assumed by such governmental authority within 60 days after such nationalization, Lessor shall be entitled to the full amount of any award or recovery of such occurrence and Lessee hereby expressly waives any right or claim to any part of such award or recovery as damage or otherwise and at the end of such 60 day period Lessee shall pay the Lessor a sum computed as though such Cars taken had been lost, stolen or destroyed under provision (a) of Section 9 hereof. Provided Lessor is paid the whole amount under this Section by Lessee, Lessor will pay to Lessee the amount of such award or recovery for such Cars received from any such governmental authority.

SECTION 18. MODIFICATION OF LEASE. This lease exclusively and completely states the rights of the Lessor and Lessee with respect to the Cars. No modification, variation, termination, discharge or abandonment hereof and no waiver of any of the provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of Lessor and Lessee, or the successors, transferees or assigns of either and the written consent of North American Car Corporation or its assigns as Mortgagee of the Cars subject, however, to the limitations on assignment hereof by Lessee.

SECTION 19. ASSIGNMENT OF RENTS. In the event there exists a default under this Lease then Lessee hereby assigns to Lessor all of its right, title and interest in and to any present and future Lease or sub-lease or earnings (including without limitation mileage allowances) with respect to the Cars including their right to receive all payments due and to become due thereunder. This Assignment of Rentals is made for the purpose of securing the performance of Lessee's obligations hereunder.

SECTION 20. SECTION HEADINGS AND CERTAIN REFERENCES. All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Lease. Unless otherwise indicated, all references herein to sections, subsections, clauses and other subdivisions refer to the corresponding sections, subsections, clauses and other subdivisions of this Lease; the words "herein", "hereof", "hereby", "hereto", "hereunder", and words of similar import refer to this Lease as a whole and not to any particular section, subsection, clause or other subdivision hereof; and reference to a numbered or lettered subdivision of a section shall include relevant matter within the section which is applicable to but not within such numbered or lettered subdivision.

SECTION 21. CERTAIN APPLICABLE LAWS. Any provision hereof prohibited by or unlawful or unenforceable under any applicable law of any jurisdiction shall as to such jurisdiction be ineffective without modifying the remaining provisions of this Lease. Where, however, the provisions of any such applicable law may be waived, they are hereby waived by Lessees to the full extent permitted by law, to the end that this Lease shall be deemed to be a valid, binding agreement enforceable in accordance with its terms.

SECTION 22. 360 DAY YEAR. Computations hereunder involving the determination of interest or discount shall be made on the basis of a 360-day year of twelve 30-day months.

SECTION 23. NOTICES. All demands, notices and other communications hereunder shall be in writing and shall be deemed to have been duly given when personally delivered or delivered to a United States post office, first-class postage prepaid, or to a telegraph office, charges prepaid, addressed as follows:



If to the Lessor:

Illinois Appliance Car Company  
29 South LaSalle Street  
Chicago, Illinois  
Attention: Mr. John S. Lizzo

Copy to: Vice President-Finance  
North American Car Corporation  
77 South Wacker Drive  
Chicago, Illinois

If to the Lessee:

Chicago Rock Island and Pacific Railroad Company  
745 South LaSalle Street  
Chicago, Illinois 60605  
Attention Vice President-Legal Department

or to such other addresses as may hereafter be furnished in writing by either party to the other.

SECTION 24. GOVERNING LAW. The provisions of this Lease and all rights and obligations hereunder shall be governed by and construed in accordance with the laws of the State of Illinois.

SECTION 25. SURVIVAL OF COVENANTS. Any other provisions contained in this Lease to the contrary notwithstanding, it is hereby agreed that the provisions of Section 7, 10, 11, 13 and 15 hereof shall survive the expiration or termination hereof.

SECTION 26. SUCCESSORS AND ASSIGNS. This Lease shall be binding upon and shall inure to the benefit of Lessor and Lessee and their respective successors and assigns, and no other persons shall have or acquire any right under or by virtue of this Lease.

SECTION 27. EXECUTION IN COUNTERPARTS. This Lease may be executed simultaneously in several counterparts, each of which so executed shall be deemed to be an original, and all such counterparts together shall constitute but one and the same instrument.

SECTION 28. RECORDING. Lessee, without expense to Lessor, will cause this Lease and all amendments, supplements and assignments hereof or thereof, to be duly filed and recorded and re-filed and re-recorded with the Interstate Commerce Commission

in accordance with Section 20c of the Interstate Commerce Act and in the event any of the Cars at any time travel into Canada (which is expressly prohibited without Lessor's written consent) this Lease is to be deposited with the Registrar General of Canada in accordance with Section 86 of the Railway Act (a notice of such deposit to be given in the "Canada Gazette" pursuant to said Section 86). Lessee agrees to make such other filings as may be required to perfect and protect the ownership of Lessor and the holders of a Permitted Lien so that at all times the ownership of Lessor and interest of the holders of any Permitted Lien shall be perfected and protected as to all of the Cars Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will re-file, re-register, or re-record whenever required) any and all further instruments required by law or reasonably requested by Lessor for the purposes of protecting the Lessor's title or any security interest constituting a Permitted Lien in the Cars to the satisfaction of Lessor or any such Lessor's or such Permitted Lien holders' counsel or for the purpose of carrying out the intent of this lease and in connection with any such action will deliver to Lessor proof of such filings and an opinion of the Lessee's counsel that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, re-filing, registering, re-registering, recording and re-recording of any such instruments or incident to the taking of such action. Lessee will promptly furnish to Lessor certificates or other evidences of such filing and recording and re-filing and re-recording and an opinion satisfactory to Lessor of Counsel for Lessee, or an attorney designated by him satisfactory to Lessor, with respect thereto. In addition, Lessee shall do and perform all such other acts as may be required by law, or reasonably requested by Lessor, for the protection of Lessor's title to and interest in the Cars.

SECTION 29. CUMULATIVE REMEDIES. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies, herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims of any right to assert any off-set against the rent payments due hereunder, and agree to make the rent payments regardless of any off-set or claim which may be asserted by the Lessee on its behalf in connection with the lease of the Cars.

SECTION 30. LESSOR'S FAILURE TO EXERCISE RIGHTS. The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

SECTION 31. LESSOR APPOINTED LESSEE'S AGENT. Without in any way limiting the obligations of the Lessee under the foregoing provisions of Section 15 hereof, the Lessee hereby irrevocably appoint the Lessor as the agent and attorney of Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Cars to Lessor, to demand and take possession of such Cars in the name and on behalf of Lessee from whosoever shall be at the time in possession of such Cars.

IN WITNESS WHEREOF, Lessor has caused this Lease to be executed by one of its general partners and Lessee has caused this Lease and its corporate name by one of its officers thereunto duly authorized and its corporate seal to be hereunto affixed and duly attested on the day and year first above written.

ILLINOIS APPLIANCE CAR COMPANY

BY

  
General Partner

CHICAGO ROCK ISLAND AND PACIFIC  
RAILROAD COMPANY

WITNESS:

  
Secretary

BY

  
VICE CHAIRMAN

STATE OF ILLINOIS       )  
                                  ) SS  
COUNTY OF COOK       )

On this 6<sup>th</sup> day of Feb., 197<sup>3</sup>7, before me personally appeared John S. Lyzo, to me personally known who, being by me duly sworn, said that he is a General Partner of ILLINOIS APPLIANCE CAR COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation this day by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Virginia M. Brown  
Notary Public

STATE OF Illinois       )  
                                  ) SS  
COUNTY OF Cook       )

On this 7<sup>th</sup> day of February, 197<sup>3</sup>7, before me personally appeared T. E. Desch, to me personally known, who being by me duly sworn said that he is Vice Chairman of the CHICAGO ROCK ISLAND AND PACIFIC RAILROAD COMPANY, that the foregoing instrument was signed by him this day on behalf of said partnership, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said partnership.

V. B. Crasney  
Notary Public

My commission expires Oct. 26, 1973

EXHIBIT A TO LEASE

Manufacturer:

Berwick Forge & Fabricating  
A Division of Whittaker Corp.  
P.O. Box 188  
Berwick, Pennsylvania 18603

Description of Equipment:

Fifteen (15) 60'9" 70-Ton Cushion  
Underframe, 10' Sliding Door, Specially  
Equipped, High Roof Box Cars for  
Appliance Service.

Reporting Marks/Road Numbers:

RI 32550-32564

Rental Payments:

Sixty (60) successive quarterly installments,  
each paid in advance as follows:

	<u>Purchase Price</u>	<u>Quarterly Rental Factor</u>	<u>Estimated Quarterly Rental</u>
Per Car	\$24,666.66	2.482524%	\$612.35
Total 15 Cars	\$370,000.00	2.482524%	\$9,185.34

In the event the purchase price of any  
Car covered by this schedule is greater  
or less than the amount set forth above,  
the rental for such Car shall be pro-  
portionally increased or reduced.

EXHIBIT B

CERTIFICATE OF INSPECTION AND ACCEPTANCE

The undersigned, the duly authorized representative of ILLINOIS APPLIANCE CAR COMPANY, (Lessor), and CHICAGO ROCK ISLAND AND PACIFIC RAILROAD COMPANY, (Lessee), hereby certifies with respect to 15-70 Ton High Roof Box Cars, manufactured by Berwich Forge and Fabricating Company, a Division of Whittaker Corporation, bearing the identifying reporting marks and numbers as follows:

RI 32550-32564

pursuant to the Lease of Railroad Equipment, dated December 12, 1972, between Lessor and Lessee (the Lease):

1. that the materials and other components incorporated in, and the construction of, said cars comply fully with, and said cars have been completed in full accordance with, the Specifications referred to in the Lease;

2. that said cars have been delivered in good order and ready for service by the Manufacturer to the Lessor and, on behalf of the Lessor, to Lessee, at \_\_\_\_\_ and were accepted by the undersigned on this date on behalf of Lessor and Lessee, in accordance with the provisions of the Lease; and

3. that there was plainly, distinctly, and conspicuously placed upon each side of each such cars at the time of its delivery and acceptance a legend bearing the following words in letters not less than one inch in height:

ILLINOIS APPLIANCE CAR COMPANY, A PARTNERSHIP,  
OWNER, NORTH AMERICAN CAR CORPORATION, CHICAGO,  
ILLINOIS MORTGAGEE UNDER AN EQUIPMENT MORTGAGE  
RECORDED UNDER SECTION 20c OF THE INTERSTATE  
COMMERCE ACT

Dated

1973

\_\_\_\_\_  
Duly Authorized Representative of  
Illinois Appliance Car Company and  
Chicago Rock Island and Pacific  
Railroad Company